

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSÉ AMILCAR ORTEZ OLIVA and ANTONIO DE
JESUS ORTEZ OLIVA, on behalf of themselves, FSLA
Collective Plaintiffs and the Class Members,

Plaintiffs,

- against -

MARTEL LANDSCAPING AND RONALD MARTEL,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING REPORT
AND RECOMMENDATION
17-CV-7201 (RRM) (AKT)

José Amilcar Orteza Oliva (“José Oliva” or “Plaintiff”) and Antonio De Jesus Orteza Oliva (“Antonio Oliva” or “Plaintiff”) filed a second motion for default judgment against Martel Landscaping and Ronald Martel (“Defendants”). This Court referred that motion to Magistrate Judge A. Kathleen Tomlinson for a Report and Recommendation. Judge Tomlinson issued a Report and Recommendation (“the R&R”) recommending that Plaintiffs’ second motion for default judgment be granted, and awarding certain damages. (Doc. No. 18.) Judge Tomlinson reminded the parties that, pursuant to Federal Rule of Civil Procedure 72, any objection to the R&R must be filed within fourteen (14) days. More than fourteen days has passed and no party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is hereby ORDERED that Plaintiffs’ second motion for default judgment against Defendants Martel Landscaping and Ronald Martel is granted. Defendants are jointly and severally liable to the Plaintiffs, and Plaintiffs are awarded: (1) damages representing (a)

\$21,937.50 in unpaid overtime wages for José Oliva and \$16,347.75 in unpaid overtime wages for Antonio Oliva; (b) \$21,937.50 in liquidated damages under state law for José Oliva and \$16,347.75 for Antonio Oliva; (c) \$10,000 in statutory damages each to José Oliva and Antonio Oliva for failure to provide wage notices and failure to provide wage statements; (2) prejudgment interest at the rate of 9% per annum on the unpaid wages to (a) José Oliva running from January 1, 2014 until the entry of judgment and (b) Antonio Oliva running from July 1, 2013 until the entry of judgment, with the calculation of interest to be completed by the Clerk of Court at the time judgment is entered; and (3) attorneys' fees in the amount of one-third of the damages awarded.

The Clerk of Court is respectfully directed to enter judgment pursuant to this Order, send a copy of this Order and the accompanying judgment to Martel Landscaping and Ronald Martel, and note the mailing on the docket.

SO ORDERED.

Dated: Brooklyn, New York
March 20, 2019

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge